



Uniform Disposition of Unclaimed Property Act Section

Municipal Treasurer's Reference Manual Disclaimer

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XIV. UNCLAIMED PROPERTY SECTION.....	0
TRANSFER OF POWERS	1
DEFINITIONS.....	1
PROPERTY HELD BY FINANCIAL ORGANIZATIONS.....	2
BUSINESS ASSOCIATIONS	3
FUNDS HELD AND OWING BY LIFE INSURANCE COMPANY	4
FUNDS HELD OR OWING BY UTILITY COMPANY	4
MONEYS HELD IN TRUST FOR PAYMENT OF STOCKS AND BONDS	5
PROPERTY DISTRIBUTABLE IN COURSE OF VOLUNTARY DISSOLUTION	5
PROPERTY HELD IN FIDUCIARY CAPACITY	5
ACTIVE EXPRESS TRUSTS	6
FUNDS OR PROPERTY HELD FOR OWNER BY COURT, PUBLIC AUTHORITY, PUBLIC OFFICER OR POLITICAL SUBDIVISION	6
PROPERTY HELD BY GOVERNMENTS	6
REPEALED	6
PROPERTY NOT OTHERWISE COVERED BY ACT.....	6
PROPERTY OF NON-RESIDENTS	7
NONAPPLICABILITY OF ACT	7
GIFT CERTIFICATES AND GIFT CARDS	8
REPORT OF HOLDER	8
ESTIMATION TECHNIQUES AND RECORD RETENTION	10
NOTICE TO OWNERS	11
DELIVERY OF PROPERTY	11
CUSTODY AND SAFEKEEPING OF PROPERTY; LEGAL PROCEEDINGS; NOTICE; DEFENSE OF SUITS; REIMBURSEMENT	12
INCOME ACCRUING AFTER PAYMENT OR DELIVERY	12
LIMITATION PERIOD; EFFECT OF EXPIRATION	13
SALE OF PROPERTY	13
DEPOSIT OF FUNDS RECEIVED UNDER THE ACT.....	14
CLAIMS OF INTERESTED PERSON; FILING	15
DETERMINATION OF CLAIMS	15
REVIEW UNDER ADMINISTRATIVE REVIEW LAW	15
REFUSAL OR POSTPONEMENT TO RECEIVE PROPERTY OF VALUE LESS THAN COST OF GIVING NOTICE AND HOLDING	16
REPORT OF ABANDONED PROPERTY; EXAMINATION OF RECORDS.....	16
NOTICE OF DEFICIENCY; TIME; EFFECT.....	17
ENFORCEMENT OF DELIVERY	18
CONTINGENCY FEES	18
PENALTIES.....	18
ADMINISTRATIVE CHARGES, FEES, AND INTEREST CHARGES.....	18
RULES AND REGULATIONS	19
ESCHEATED OR ABANDONED PROPERTY UNDER LAWS OF OTHER STATES	20
SEVERABILITY CLAUSE	20
CONSTRUCTION	20
APPLICATION TO LABOR AND STORAGE LIEN (SMALL AMOUNT) ACT	20
SHORT TITLE	20

MUNICIPAL TREASURER'S REFERENCE MANUAL

PROPERTY

(765 ILCS 1025/0.05) Uniform Disposition of Unclaimed Property Act.

XIV. UNCLAIMED PROPERTY SECTION

[TRANSFER OF POWERS](#)

[DEFINITIONS](#)

[PROPERTY HELD BY FINANCIAL ORGANIZATIONS](#)

[BUSINESS ASSOCIATIONS](#)

[FUNDS HELD AND OWING BY LIFE INSURANCE COMPANY](#)

[FUNDS HELD OR OWING BY UTILITY COMPANY](#)

[MONEYS HELD IN TRUST FOR PAYMENT OF STOCKS AND BONDS](#)

[PROPERTY DISTRIBUTABLE IN COURSE OF VOLUNTARY DISSOLUTION](#)

[PROPERTY HELD IN FIDUCIARY CAPACITY](#)

[ACTIVE EXPRESS TRUSTS](#)

[FUNDS OR PROPERTY HELD FOR OWNER BY COURT, PUBLIC](#)

[AUTHORITY, PUBLIC OFFICER OR POLITICAL SUBDIVISION](#)

[PROPERTY HELD BY GOVERNMENTS](#)

[REPEALED](#)

[PROPERTY NOT OTHERWISE COVERED BY ACT](#)

[PROPERTY OF NON-RESIDENTS](#)

[NONAPPLICABILITY OF ACT](#)

[GIFT CERTIFICATES AND GIFT CARDS](#)

[REPORT OF HOLDER](#)

[ESTIMATION TECHNIQUES AND RECORD RETENTION](#)

[NOTICE TO OWNERS](#)

[DELIVERY OF PROPERTY](#)

[CUSTODY AND SAFEKEEPING OF PROPERTY; LEGAL PROCEEDINGS;](#)

[NOTICE; DEFENSE OF SUITS; REIMBURSEMENT](#)

[INCOME ACCRUING AFTER PAYMENT OR DELIVERY](#)

[LIMITATION PERIOD; EFFECT OF EXPIRATION](#)

[SALE OF PROPERTY](#)

[DEPOSIT OF FUNDS RECEIVED UNDER THE ACT](#)

[CLAIMS OF INTERESTED PERSON; FILING](#)

[DETERMINATION OF CLAIMS](#)

[REVIEW UNDER ADMINISTRATIVE REVIEW LAW](#)

[REFUSAL OR POSTPONEMENT TO RECEIVE PROPERTY OF VALUE LESS](#)

[THAN COST OF GIVING NOTICE AND HOLDING](#)

[REPORT OF ABANDONED PROPERTY; EXAMINATION OF RECORDS](#)

[NOTICE OF DEFICIENCY; TIME; EFFECT](#)

[ENFORCEMENT OF DELIVERY](#)

[CONTINGENCY FEES](#)

[PENALTIES](#)

[ADMINISTRATIVE CHARGES, FEES, AND INTEREST CHARGES](#)

[RULES AND REGULATIONS](#)

[ESCHEATED OR ABANDONED PROPERTY UNDER LAWS OF OTHER](#)

[STATES](#)

[SEVERABILITY CLAUSE](#)

[CONSTRUCTION](#)

[APPLICATION TO LABOR AND STORAGE LIEN \(SMALL AMOUNT\) ACT](#)

[SHORT TITLE](#)

Transfer of Powers
(765 ILCS 1025/0.05)

Sec. 0.05. Transfer of powers. The rights, powers, duties, and functions vested in the Department of Financial Institutions to administer this Act are transferred to the State Treasurer on July 1, 1999 in accordance with Sections 0.02 through 0.06 of the State Treasurer Act; provided, however, that the rights, powers, duties, and functions involving the examination of the records of any person that the State Treasurer has reason to believe has failed to report properly under this Act shall be transferred to the Office of Banks and Real Estate if the person is regulated by the Office of Banks and Real Estate under the Illinois Banking Act, the Corporate Fiduciary Act, the Foreign Banking Office Act, the Illinois Savings and Loan Act of 1985, or the Savings Bank Act and shall be retained by the Department of Financial Institutions if the person is doing business in the State under the supervision of the Department of Financial Institutions, the National Credit Union Administration, the Office of Thrift Supervision, or the Comptroller of the Currency.

(Source: P.A. 91-16, eff. 6-4-99.)

Definitions

(765 ILCS 1025/1) (from Ch. 141, par. 101)

Sec. 1. As used in this Act, unless the context otherwise requires:

- (a) "Banking organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker.
- (b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association, limited liability company, or other business entity consisting of one or more persons, whether or not for profit.
- (c) "Financial organization" means any savings and loan association, building and loan association, credit union, currency exchange, co-operative bank, mutual funds, or investment company.
- (d) "Holder" means any person in possession of property subject to this Act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this Act.
- (e) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.
- (f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other property, or any person having a legal or equitable interest in property subject to this Act, or his legal representative.
- (g) "Person" means any individual, business association, financial organization, government or political subdivision or agency, public authority, estate, trust, or any other legal or commercial entity.
- (h) "Utility" means any person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil or gas.
- (i) (Blank).
- (j) "Insurance company" means any person transacting the kinds of business enumerated in Section 4 of the Illinois Insurance Code other than life insurance.

- (k) "Economic loss", as used in Sections 2a and 9 of this Act includes, but is not limited to, delivery charges, mark-downs and write-offs, carrying costs, restocking charges, lay-aways, special orders, issuance of credit memos, and the costs of special services or goods provided that reduce the property value or that result in lost sales opportunity.
- (l) "Reportable property" means property, tangible or intangible, presumed abandoned under this Act that must be appropriately and timely reported and remitted to the Office of the State Treasurer under this Act. Interest, dividends, stock splits, warrants, or other rights that become reportable property under this Act include the underlying security or commodity giving rise to the interest, dividend, split, warrant, or other right to which the owner would be entitled.
- (m) "Firearm" has the meaning ascribed to that term in the Firearm Owners Identification Card Act.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99; 91-748, eff. 6-2-00.)

Property Held by Financial Organizations

(765 ILCS 1025/2) (from Ch. 141, par. 102)

Sec. 2. Property held by financial organizations; presumption of abandonment. The following property held or owing by a banking or financial organization is presumed abandoned:

- (a) Any demand, savings, or matured time deposit with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within 5 years:
 - (1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or
 - (2) Corresponded in writing with the banking organization concerning the deposit; or
 - (3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.
- (b) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, or any deposit made, and any interest or dividends thereon, excluding any charges that may be lawfully withheld, unless the owner has within 5 years:
 - (1) Increased or decreased the amount of the funds, or deposit, or presented an appropriate record for the crediting of interest or dividends; or
 - (2) Corresponded in writing with the financial organization concerning the funds or deposit; or
 - (3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.
- (c) Any sum payable on checks or on written instruments on which a banking or financial organization or business association is directly liable including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders and travelers checks, that with the exception of travelers checks has been outstanding for more than 5 years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of travelers checks, that has been outstanding for more than 15 years from the date of its issuance, excluding any charges that may be lawfully withheld relating to money orders issued by

currency exchanges, unless the owner has within 5 years or within 15 years in the case of travelers checks corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

- (d) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than 5 years from the date on which the lease or rental period expired, subject to lien of the holder for reimbursement of costs incurred in the opening of a safe deposit box as determined by the holder's regular schedule of charges.
- (e) Notwithstanding any other provision of this Section, no deposit except passbook, checking, NOW accounts, super NOW accounts, money market accounts, or such similar accounts as established by Rule of the State Treasurer, held by a banking or financial organization shall be presumed abandoned if with respect to such a deposit which specifies a definite maturity date, such organization was authorized in writing to extend or rollover the account for an additional like period and such organization does so extend. Such deposits are not presumed abandoned less than 5 years from that final maturity date. Property of any kind held in an individual retirement account (IRA) is not presumed abandoned earlier than 5 years after the owner attains the age at which distributions from the account become mandatory under law.
- (f) Notwithstanding any other provision of this Section, money of a minor deposited pursuant to Section 24-21 of the Probate Act of 1975 shall not be presumed abandoned earlier than 5 years after the minor attains legal age. Such money shall be deposited in an account which shall indicate the birth date of the minor.

(Source: P.A. 91-16, eff. 7-1-99; 91-316, eff. 7-29-99; 92-16, eff. 6-28-01.)

Business Associations

(765 ILCS 1025/2a) (from Ch. 141, par. 102a)

Sec. 2a.

- (a) Business associations shall report, pursuant to Section 11 of this Act, all property and any earnings thereon to which the owner would be entitled that have remained unclaimed for 5 years and are therefore presumed abandoned. Before reporting and delivering property as required under this Act, a business association may deduct from the amount of otherwise reportable intangible personal property the economic loss suffered by it in connection with that intangible personal property arising from transactions involving the sale of tangible personal property at retail. This property shall consist of, but is not limited to:
 - (1) unclaimed wages;
 - (2) deposits or payment for repair or purchase of goods or services;
 - (3) credit checks or memos, or customer overpayments;
 - (4) stocks, bonds, or any other type of securities or debt instruments, and interest and dividends therefrom;
 - (5) unidentified remittances, unrefunded overcharges;

- (6) unpaid claims, unpaid accounts payable or unpaid commissions; and
 - (7) credit balances - accounts receivable, checks written off, employee bond buying and profit-sharing.
- (b) Notwithstanding the provisions of subsection (a), any property due or owed by a business association to or for the benefit of another business association resulting from a transaction occurring in the normal and ordinary course of business shall be exempt from the provisions of this Act.
- (Source: P.A. 90-167, eff. 7-23-97; 91-688, eff. 3-23-00.)

Funds Held and Owing by Life Insurance Company

(765 ILCS 1025/3) (from Ch. 141, par. 103)

Sec. 3.

- (a) Unclaimed funds, as defined in this Section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this State. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.
- (b) "Unclaimed funds", as used in this Section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than 5 years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding 5 years,
- (1) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or
 - (2) corresponded in writing with the life insurance corporation concerning the policy.

Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

(Source: P.A. 87-925.)

Funds Held or Owing by Utility Company

(765 ILCS 1025/4) (from Ch. 141, par. 104)

Sec. 4. The following funds held or owing by any utility are presumed abandoned:

- (a) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished, less any lawful deduction, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than 5 years after the termination of the services for which the deposit or advance payment was made.

- (b) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this State, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than 5 years after the date it became payable in accordance with the final determination or order providing for the refund.
- (c) Any capital credits or patronage capital retired, returned, refunded or tendered to a member of an electric cooperative as defined in Section 3.4 of the Electric Supplier Act or a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act that have remained unclaimed by the person appearing on the records of the cooperative entitled thereto for more than 2 years. Such unclaimed capital credits or patronage capital shall not be subject to, or governed by, any other provisions of this Act, but rather shall be used by the cooperative for the benefit of the general membership of the cooperative.

(Source: P.A. 90-167, eff. 7-23-97.)

Moneys Held in Trust for Payment of Stocks and Bonds

(765 ILCS 1025/5) (from Ch. 141, par. 105)

Sec. 5. The provisions of this Act shall not apply to any amount held or owing by a banking organization as agent, or as trustee of an express trust, for the purpose of making payment to holders of, or in respect of stocks, bonds, or other securities of a governmental or other public issuer, or of a business association other than a business association which shall have discontinued the conduct of its business, or the corporate existence of which shall have terminated, without the right to receive such amount having passed to a successor or successors.

As of January 1, 1998, this Section shall not be applicable unless the Department has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(Source: P.A. 90-167, eff. 7-23-97.)

Property Distributable in Course of Voluntary Dissolution

(765 ILCS 1025/6) (from Ch. 141, par. 106)

Sec. 6. All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization that is unclaimed by the owner within 2 years after the date for final distribution, is presumed abandoned.

(Source: P.A. 90-167, eff. 7-23-97.)

Property Held in Fiduciary Capacity

(765 ILCS 1025/7) (from Ch. 141, par. 107)

Sec. 7. All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within 5 years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

A fiduciary may deduct any actual cost incurred in connection with the administration of suspense, abeyant, and similar accounts arising out of its fiduciary, stock transfer, corporation trust, and securities processing activities but not to exceed 8% of the property remitted.

(Source: P.A. 90-167, eff. 7-23-97.)

Active Express Trusts

(765 ILCS 1025/7a) (from Ch. 141, par. 107a)

Sec. 7a. The provisions of this Act shall not apply to an active express trust.

As of January 1, 1998, this Section shall not be applicable unless the Department has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(Source: P.A. 90-167, eff. 7-23-97.)

Funds or Property Held for Owner by Court, Public Authority, Public Officer or Political Subdivision

(765 ILCS 1025/8) (from Ch. 141, par. 108)

Sec. 8. All funds and intangible personal property held for the owner by any court, public authority, or public officer of this State, or a political subdivision thereof, that has remained unclaimed by the owner for more than 7 years is presumed abandoned. This Section does not apply to deposits made to municipalities as a condition for the issuance of a building permit.

(Source: P.A. 90-167, eff. 7-23-97.)

Property Held by Governments

(765 ILCS 1025/8.1) (from Ch. 141, par. 108.1)

Sec. 8.1. Property held by governments.

- (a) All tangible personal property or intangible personal property and all debts owed or entrusted funds or other property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, shall be presumed abandoned if the property has remained unclaimed for 7 years.
- (b) This Section applies to all abandoned property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, on the effective date of this amendatory Act of 1991 or at any time thereafter, regardless of when the property became or becomes presumptively abandoned.

(Source: P.A. 90-167, eff. 7-23-97; 91-357, eff. 7-29-99.)

Repealed

(765 ILCS 1025/8.2) (from Ch. 141, par. 108.2)

Sec. 8.2. (Repealed).

(Source: P.A. 87-1135. Repealed by P.A. 89-567, eff. 7-26-96.)

Property Not Otherwise Covered by Act

(765 ILCS 1025/9) (from Ch. 141, par. 109)

Sec. 9. All personal property, not otherwise covered by this Act, including any income or increment thereon that the owner would be entitled to and deducting any lawful charges,

that has remained unclaimed by the owner for more than 5 years is presumed abandoned. Before reporting and delivering property as required under this Act, a business association may deduct from the amount of otherwise reportable intangible personal property the economic loss suffered by it in connection with that intangible personal property arising from transactions involving the sale of tangible personal property at retail. Except as provided in Section 10.5, this provision shall not apply to personal property held prior to October 1, 1968 by business associations. Property remitted to the State pursuant to this Act, prior to the effective date of this amendatory Act of 1982, shall not be affected by this amendatory Act of 1982.
(Source: P.A. 90-167, eff. 7-23-97.)

Property of Non-Residents

(765 ILCS 1025/10) (from Ch. 141, par. 110)

Sec. 10. If specific property which is subject to the provisions of Sections 2, 5, 6, 7 and 9 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this State and subject to this Act if:

- (a) it may be claimed as abandoned or escheated under the laws of such other state;
and
- (b) the laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.

(Source: Laws 1963, p. 1805.)

Nonapplicability of Act

(765 ILCS 1025/10.5)

Sec. 10.5. Nonapplicability of Act.

- (a) Unless the personal property was identified in a final examination report by the Director of Financial Institutions issued pursuant to a duly authorized examination and the final examination report was received by the holder on or before May 1, 1993, this Act does not apply to
 - (i) travelers checks reportable as unclaimed property before July 1, 1973,
 - (ii) funds held by any federal, state, or local government or governmental subdivision, agency, entity, officer, or appointee thereof reportable as unclaimed property before July 1, 1981, or
 - (iii) any other personal property reportable as unclaimed property before July 1, 1985, based upon the presumptive abandonment period in effect on that date.
- (b) For reports required to be filed after December 31, 1993, this Act does not apply to any reportable personal property held prior to the period required for presumptive abandonment of the property plus the 9 years immediately preceding the beginning of that period.
- (c) Subsections (a) and (b) do not apply to property held by a trust division or trust department or by a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States.

As of January 1, 1998, this subsection shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

- (d) Subsections (a) and (b) do not apply to property held by a holder who files a fraudulent report or fails to file a report.
- (e) Subsections (a) and (b) do not apply if, as a result of their application, another state would have a legal right to delivery of the property and such other state has commenced proceedings with respect to the property.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Gift Certificates and Gift Cards

(765 ILCS 1025/10.6)

Sec. 10.6. Gift certificates and gift cards.

- (a) This Act applies to a gift certificate or gift card only if:
 - (i) the gift certificate or gift card contains or has language indicating there is an expiration date, expiration period or language indicating that there is any type of post-sale charge or fee including but not limited to service charges, dormancy fees, account maintenance fees, cash-out fees, replacement card fees, and activation or reactivation charges; and
 - (ii) none of the exceptions in this Section apply.
- (b) This Act does not apply to a gift certificate or gift card that contains or has language indicating that there is an expiration date or expiration period, or any type of post-sale charge or fee including but not limited to service charges, dormancy fees, account maintenance fees, cash-out fees, replacement card fees, and activation or reactivation charges if:
 - (i) the gift certificate or gift card was issued before the effective date of this amendatory Act of the 93rd General Assembly; and
 - (ii) it is the policy and practice of the issuer of the gift certificate or gift card to honor the gift certificate or gift card after its expiration date or the end of its expiration period and it is the policy and practice of the issuer of the gift certificate or gift card to eliminate all post-sale charges and fees, and the issuer posts written notice of the policy and practice at locations at which the issuer sells gift certificates or gift cards. The written notice shall be an original or a copy of a notice that the State Treasurer shall produce and provide to issuers free of charge.
- (c) Nothing in this Section applies to a gift certificate or gift card if the value of the gift certificate or gift card was reported and remitted under this Act before the effective date of this amendatory Act of the 93rd General Assembly.

(Source: P.A. 92-487, eff. 8-23-01; 93-945, eff. 1-1-05.)

Report of Holder

(765 ILCS 1025/11) (from Ch. 141, par. 111)

Sec. 11. Report of holder.

- (a) Except as otherwise provided in subsection (c) of Section 4, every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report and remit all abandoned property specified in the report to the State Treasurer with respect to the property as hereinafter provided. The State

Treasurer may exempt any businesses from the reporting requirement if he deems such businesses unlikely to be holding unclaimed property.

- (b) The information shall be obtained in one or more reports as required by the State Treasurer. The information shall be verified and shall include:
 - (1) the name, social security or federal tax identification number, if known, and last known address, including zip code, of each person appearing from the records of the holder to be the owner of any property of the value of \$25 or more presumed abandoned under this Act;
 - (2) in case of unclaimed funds of life insurance corporations the full name of the insured and any beneficiary or annuitant and the last known address according to the life insurance corporation's records;
 - (3) the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and
 - (4) other information which the State Treasurer prescribes by rule as necessary for the administration of this Act.
- (c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.
- (d) The report and remittance of the property specified in the report shall be filed by banking organizations, financial organizations, insurance companies other than life insurance corporations, and governmental entities before November 1 of each year as of June 30 next preceding. The report and remittance of the property specified in the report shall be filed by business associations, utilities, and life insurance corporations before May 1 of each year as of December 31 next preceding. The Director may postpone the reporting date upon written request by any person required to file a report.
- (d-5) Notwithstanding the foregoing, currency exchanges shall be required to report and remit property specified in the report within 30 days after the conclusion of its annual examination by the Department of Financial Institutions. As part of the examination of a currency exchange, the Department of Financial Institutions shall instruct the currency exchange to submit a complete unclaimed property report using the State Treasurer's formatted diskette reporting program or an alternative reporting format approved by the State Treasurer. The Department of Financial Institutions shall provide the State Treasurer with an accounting of the money orders located in the course of the annual examination including, where available, the amount of service fees deducted and the date of the conclusion of the examination.
- (e) Before filing the annual report, the holder of property presumed abandoned under this Act shall communicate with the owner at his last known address if any address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed. If the holder has not communicated with the owner at his last known address at least 120 days before the deadline for filing the annual report, the holder shall mail, at least 60 days before that deadline, a letter by first class mail to the owner at his last known address unless any address is shown to be inaccurate, setting forth the provisions hereof necessary to prevent abandonment from being presumed.

- (f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.
- (g) Any person who has possession of property which he has reason to believe will be reportable in the future as unclaimed property, may report and deliver it prior to the date required for such reporting in accordance with this Section and is then relieved of responsibility as provided in Section 14.
- (h) (1) Records pertaining to presumptively abandoned property held by a trust division or trust department or by a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States shall be retained until the property is delivered to the State Treasurer.

As of January 1, 1998, this subdivision (h)(1) shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(2) In the case of all other holders commencing on the effective date of this amendatory Act of 1993, property records for the period required for presumptive abandonment plus the 9 years immediately preceding the beginning of that period shall be retained for 5 years after the property was reportable.

- (i) The State Treasurer may promulgate rules establishing the format and media to be used by a holder in submitting reports required under this Act.
- (j) Other than the Notice to Owners required by Section 12 and other discretionary means employed by the State Treasurer for notifying owners of the existence of abandoned property, the State Treasurer shall not disclose any information provided in reports filed with the State Treasurer or any information obtained in the course of an examination by the State Treasurer to any person other than governmental agencies for the purposes of returning abandoned property to its owners or to those individuals who appear to be the owner of the property or otherwise have a valid claim to the property, unless written consent from the person entitled to the property is obtained by the State Treasurer.

(Source: P.A. 92-271, eff. 8-7-01; 93-531, eff. 8-14-03.)

Estimation Techniques and Record Retention

(765 ILCS 1025/11.5)

Sec. 11.5. Estimation techniques and record retention.

- (a) If a holder has failed to retain records as required by this Act or if the records retained are shown to be insufficient to conduct and conclude an examination, the Office of the State Treasurer may use estimation techniques that conform to either Generally Accepted Auditing Standards or Generally Accepted Accounting Principles to determine the amount of unclaimed property. In the conduct of an examination, the State shall not request of a holder any records that relate only to property that under subsection (a) or (b) of Section 10.5 is not subject to this Act.
- (b) Within 15 business days of the receipt of a final examination report, a holder may request a hearing to contest the use or validity of estimation techniques. The examination shall become final upon the failure of the holder to request a hearing

as provided in this Section. If a hearing is held, the State Treasurer shall issue an order approving or disapproving the use or validity of the estimation techniques.

The order shall be a final order under the Administrative Review Law.

(Source: P.A. 91-16, eff. 7-1-99.)

Notice to Owners

(765 ILCS 1025/12) (from Ch. 141, par. 112)

Sec. 12. Notice to owners.

- (a) For property reportable by May 1, as identified by Section 11, the State Treasurer shall cause notice to be published once in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person to be named in the notice on or before November 1 of the same year. For property reportable by November 1, as identified by Section 11, the State Treasurer shall cause notice to be published once in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person named in the notice on or before May 1 of the next year. If no address is listed or if the address is outside this State, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this State. However, if an out-of-state address is in a state that is not a party to a reciprocal agreement with this State concerning abandoned property, the notice may be published in the Illinois Register.
- (b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and shall contain:
 - (1) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;
 - (2) a statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Treasurer;
 - (3) a statement that the abandoned property has been placed in the custody of the State Treasurer to whom all further claims must thereafter be directed.
- (c) The State Treasurer is not required to publish in such notice any item of less than \$100 or any item for which the address of the last known owner is in a state that has a reciprocal agreement with this State concerning abandoned property unless he deems such publication to be in the public interest.

(Source: P.A. 93-531, eff. 8-14-03.)

Delivery of Property

(765 ILCS 1025/13) (from Ch. 141, par. 113)

Sec. 13. Every person who has filed a report as provided by Section 11 shall deliver to the State Treasurer all abandoned property specified in the annual report on the same date that the annual report is filed. Costs for communicating with owners by mail as required by subsection (e) of Section 11 may be deducted from the property specified in the report. Any such person, who pursuant to a statutory requirement, filed a bond or bonds pertaining to such abandoned property with the State Treasurer or his predecessor, may

also deduct an amount equivalent to that part of the bond premium attributable to such abandoned property.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Custody and Safekeeping of Property; Legal Proceedings; Notice; Defense of Suits; Reimbursement

(765 ILCS 1025/14) (from Ch. 141, par. 114)

Sec. 14. Upon the payment or delivery of abandoned property to the State Treasurer, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the State Treasurer under this Act is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

In the event legal proceedings are instituted by any other state or states in any state or federal court with respect to unclaimed funds or abandoned property previously paid or delivered to the State Treasurer, the holder shall give written notification to the State Treasurer and the Attorney General of this state of such proceedings within 10 days after service of process, or in the alternative at least 10 days before the return date or date on which an answer or similar pleading is due (or any extension thereof secured by the holder). The Attorney General may take such action as he deems necessary or expedient to protect the interests of the State of Illinois. The Attorney General by written notice prior to the return date or date on which an answer or similar pleading is due (or any extension thereof secured by the holder), but in any event in reasonably sufficient time for the holder to comply with the directions received, shall either direct the holder actively to defend in such proceedings or that no defense need be entered in such proceedings. If a direction is received from the Attorney General that the holder need not make a defense, such shall not preclude the holder from entering a defense in its own name if it should so choose. However, any defense made by the holder on its own initiative shall not entitle the holder to reimbursement for legal fees, costs and other expenses as is hereinafter provided in respect to defenses made pursuant to the directions of the Attorney General. If, after the holder has actively defended in such proceedings pursuant to a direction of the Attorney General, or has been notified in writing by the Attorney General that no defense need be made with respect to such funds, a judgment is entered against the holder for any amount paid to the State Treasurer under this Act, the State Treasurer shall, upon being furnished with proof of payment in satisfaction of such judgment, reimburse the holder the amount so paid. The State Treasurer shall also reimburse the holder for any legal fees, costs and other directly related expenses incurred in legal proceedings undertaken pursuant to the direction of the Attorney General.

(Source: P.A. 91-16, eff. 7-1-99.)

Income Accruing After Payment or Delivery

(765 ILCS 1025/15) (from Ch. 141, par. 115)

Sec. 15. When property is paid or delivered to the State Treasurer under this Act, the owner is not entitled to receive income or other increments accruing thereafter, except that income accruing on unliquidated stock and mutual funds after July 1, 1993, may be paid to the owner.

(Source: P.A. 91-16, eff. 7-1-99.)

Limitation Period; Effect of Expiration

(765 ILCS 1025/16) (from Ch. 141, par. 116)

Sec. 16. The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this Act or to pay or deliver abandoned property to the State Treasurer.

(Source: P.A. 91-16, eff. 7-1-99.)

Sale of Property

(765 ILCS 1025/17) (from Ch. 141, par. 117)

Sec. 17.

(a) All abandoned property, other than money and that property exempted by paragraphs (1), (2), and (3) of this subsection, delivered to the State Treasurer under this Act shall be sold within a reasonable time to the highest bidder at public sale in whatever city in the State affords in his or her judgment the most favorable market for the property involved. The State Treasurer may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The State Treasurer may group items for auction as "box lots" if the value of the individual items makes it impracticable to sell the items individually. He or she need not offer any property for sale, and may destroy or otherwise dispose of the property, if, in his or her opinion, the probable cost of sale exceeds the value of the property. Securities or commodities received by the Office of the State Treasurer may be sold by the State Treasurer through a broker or sales agent suitable for the sale of the type of securities or commodities being sold.

- (1) Property which the State Treasurer determines may have historical value may be, at his or her discretion, loaned to a recognized exhibitor in the United States where it will be kept until such time as the State Treasurer orders it to be returned to his or her possession.
- (2) Property returned to the State Treasurer shall be released to the rightful owner or otherwise disposed of in accordance with this Act. The State Treasurer shall keep identifying records of the property so loaned, the name of rightful owner and the owner's last known address, if available.
- (3) The Treasurer, in cooperation with the Illinois State Police, shall develop a procedure to determine whether a firearm delivered to the Treasurer under this Act has been stolen or used in the commission of a crime. The Illinois State Police shall determine the appropriate disposition of a firearm that has been stolen or used in the commission of a crime. The Treasurer shall attempt to return a firearm that has not been stolen or used in the commission of a crime to the rightful owner, provided that the owner may lawfully possess the firearm as determined by the Illinois State Police.

If the Treasurer is unable to return a firearm to its owner, the Treasurer shall transfer custody of the firearm to the Illinois State Police. Legal title to a firearm transferred to the Illinois State Police under this paragraph (3) is vested in the Illinois State Police by operation of law:

- (A) if the Treasurer cannot locate the owner of the firearm;
- (B) if the owner of the firearm may not lawfully possess the firearm;

- (C) if the owner does not respond to notice published under Section 12 of this Act; or
- (D) if the owner responds to notice published under Section 12 and states that he or she no longer claims an interest in the firearm.

With respect to a firearm whose title is transferred to the Illinois State Police under this paragraph (3), that Department may:

- (i) retain the firearm for use by the crime laboratory system, for training purposes, or for any other application as deemed appropriate by the Department;
 - (ii) transfer the firearm to the Illinois State Museum if the firearm has historical value; or
 - (iii) destroy the firearm if it is not retained pursuant to subparagraph (i) or transferred pursuant to subparagraph (ii).
- (b) Any sale held under this Section, except a sale of securities or commodities, shall be preceded by a single publication of notice thereof, at least 3 weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold. When property fails to sell and is offered again at a subsequent sale, no additional notice is required for the subsequent sale.
 - (c) The purchaser at any sale conducted by the State Treasurer pursuant to this Act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Treasurer shall execute all documents necessary to complete the transfer of title.
 - (d) The Office of the State Treasurer is not liable for any reduction in the value of property caused by changing market conditions.

(Source: P.A. 91-16, eff. 7-1-99; 91-748, eff. 6-2-00.)

Deposit of Funds Received under the Act

(765 ILCS 1025/18) (from Ch. 141, par. 118)

Sec. 18. Deposit of funds received under the Act.

- (a) The State Treasurer shall retain all funds received under this Act, including the proceeds from the sale of abandoned property under Section 17, in a trust fund and shall, on April 15 and October 15 of each year, deposit any amount in the trust fund exceeding \$2,500,000 into the State Pensions Fund. He or she shall make prompt payment of claims he or she duly allows as provided for in this Act for the trust fund. Before making the deposit the State Treasurer shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property. The record shall be available for public inspection during reasonable business hours.
- (b) Before making any deposit to the credit of the State Pensions Fund, the State Treasurer may deduct: (1) any costs in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) any costs in connection with the maintenance of records or disposition of claims made pursuant to this Act. The State Treasurer shall semiannually file an itemized report of all such expenses with the Legislative Audit Commission.

(Source: P.A. 93-531, eff. 8-14-03.)

Claims of Interested Person; Filing

(765 ILCS 1025/19) (from Ch. 141, par. 119)

Sec. 19. Any person claiming an interest in any property delivered to the State under this Act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the State Treasurer.

(Source: P.A. 91-16, eff. 7-1-99.)

Determination of Claims

(765 ILCS 1025/20) (from Ch. 141, par. 120)

Sec. 20. Determination of claims.

- (a) The State Treasurer shall consider any claim filed under this Act and may, in his discretion, hold a hearing and receive evidence concerning it. Such hearing shall be conducted by the State Treasurer or by a hearing officer designated by him. No hearings shall be held if the payment of the claim is ordered by a court, if the claimant is under court jurisdiction, or if the claim is paid under Article XXV of the Probate Act of 1975. The State Treasurer or hearing officer shall prepare a finding and a decision in writing on each hearing, stating the substance of any evidence heard by him, his findings of fact in respect thereto, and the reasons for his decision. The State Treasurer shall review the findings and decision of each hearing conducted by a hearing officer and issue a final written decision. The final decision shall be a public record. Any claim of an interest in property that is filed pursuant to this Act shall be considered and a finding and decision shall be issued by the Office of the State Treasurer in a timely and expeditious manner.
- (b) If the claim is allowed, and after deducting an amount not to exceed \$20 to cover the cost of notice publication and related clerical expenses, the State Treasurer shall make payment forthwith.
- (c) In order to carry out the purpose of this Act, no person or company shall be entitled to a fee for discovering presumptively abandoned property until it has been in the custody of the Unclaimed Property Division of the Office of the State Treasurer for at least 24 months. Fees for discovering property that has been in the custody of that division for more than 24 months shall be limited to not more than 10% of the amount collected.
- (d) A person or company attempting to collect a contingent fee for discovering, on behalf of an owner, presumptively abandoned property must be licensed as a private detective pursuant to the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993.
- (e) This Section shall not apply to the fees of an attorney at law duly appointed to practice in a state of the United States who is employed by a claimant with regard to probate matters on a contractual basis.

(Source: P.A. 93-531, eff. 8-14-03.)

Review Under Administrative Review Law

(765 ILCS 1025/21) (from Ch. 141, par. 121)

Sec. 21. A final administrative decision of the State Treasurer in respect to a claim filed hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant thereto. The review action may be instituted by any person adversely affected or aggrieved by the decision.

The Office of the State Treasurer shall furnish a certified transcript of the record to any party of record upon the payment of the actual page charge of the record to a commercial reporting service for the preparation of the transcript. If no hearing was held, the State Treasurer shall deliver a copy of his decision stating the reasons upon which the claim was denied and deliver it to any party of record within 20 days of demand.
(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Refusal or Postponement to Receive Property of Value Less Than Cost of Giving Notice and Holding

(765 ILCS 1025/22) (from Ch. 141, par. 122)

Sec. 22. The State Treasurer, after receiving reports of property deemed abandoned pursuant to this Act, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum has accumulated. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under Section 11, the State Treasurer shall be deemed to have elected to receive the custody of the property.

(Source: P.A. 91-16, eff. 7-1-99.)

Report of Abandoned Property; Examination of Records

(765 ILCS 1025/23) (from Ch. 141, par. 123)

Sec. 23.

- (a) If the State Treasurer has reason to believe that any person has failed to report property in accordance with this Act, he may make a demand by certified mail, return receipt requested, that such report be made and filed with the State Treasurer. The report of abandoned property or any other report required shall be made and filed with the State Treasurer within 30 days after receipt of the demand.
- (b) The State may at reasonable times and upon reasonable notice examine the records of any person if the State Treasurer has reason to believe that such person has failed to report property that should have been reported pursuant to this Act. Upon the direction of the State Treasurer to do so, the Office of Banks and Real Estate shall, on behalf of the State, conduct the examination of the records of any person who is regulated by the Office of Banks and Real Estate under the Illinois Banking Act, the Corporate Fiduciary Act, the Foreign Banking Office Act, the Illinois Savings and Loan Act of 1985, or the Savings Bank Act. Upon direction of the State Treasurer to do so, the Department of Financial Institutions shall, on behalf of the State, conduct the examination of the records of any person doing business in the State under the supervision of the Department of Financial Institutions, the National Credit Union Administration, the Office of Thrift Supervision, or the Comptroller of the Currency. The Office of Banks and Real Estate and the Department of Financial Institutions shall conduct all examinations during the next regular examination of the person, unless the State Treasurer has reason to believe that an accelerated examination schedule is required to protect the State's interest, in which case the examination must be conducted within 90 days of the State Treasurer's direction to do so. The Office of Banks and Real Estate and the Department of Financial Institutions may contract with third parties to ensure that the examinations are commenced in a timely manner. The

Department of Financial Institutions and the Office of Banks and Real Estate shall report the results of all examinations that are undertaken at the direction of the State Treasurer under this Act, which may include confidential information, to the State Treasurer in a timely manner and, upon the request of the Treasurer, shall assist in the evaluation of the examinations. All examinations that are not performed by the Office of Banks and Real Estate or the Department of Financial Institutions shall be performed by the State Treasurer.

- (c) The actual cost of any examination or investigation incurred by the State in administering any provision of this Act shall be borne by the holder examined or investigated if:
- (1) a written demand for a report has been made and the report has not been properly filed within the time period specified in this Section, or
 - (2) a report has been received and additional property reportable under the Act is discovered by such examination or investigation.

No holder shall be liable to pay more than an amount equal to the amount of reportable property discovered by such investigation as a cost of examination or investigation.

- (d) For all holders other than a trust division, a trust department, a trust company, or an affiliate of any of them, subsection (c) does not apply to any examination commenced after the effective date of this amendatory Act of 1993. As of January 1, 1998, subsection (c) does not apply to an examination of a trust division or trust department or a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Notice of Deficiency; Time; Effect

(765 ILCS 1025/23.5)

Sec. 23.5. Notice of deficiency; time; effect.

- (a) The State Treasurer shall issue a Notice of Deficiency to a holder or direct the commencement of an examination of a holder with respect to a report required under this Act within 5 years after the report is filed. A Notice of Deficiency shall specify the additional amounts, if known, purportedly reportable under this Act or state that those amounts are unknown. If the State Treasurer fails to issue a Notice of Deficiency or direct the commencement of an examination within the time required by this Section, the Office of the State Treasurer may not thereafter issue a Notice of Deficiency, otherwise assert a deficiency, or seek any other charge or remedy under this Act with respect to that report.
- (b) This Section does not apply to a holder that is a trust division or trust department or a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States.

As of January 1, 1998, this subsection shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an

examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.
(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Enforcement of Delivery

(765 ILCS 1025/24) (from Ch. 141, par. 124)

Sec. 24. Enforcement of delivery. If any person refuses to deliver property to the State Treasurer as required under this Act, the State Treasurer may bring an action in the name of the State in the circuit court or any federal court to enforce delivery.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Contingency Fees

(765 ILCS 1025/24.5)

Sec. 24.5. Contingency fees. The State may not enter into a contract with a person to conduct an examination of a holder located within the State of Illinois under which the State agrees to pay such person a fee based upon a percentage of the property recovered for the State of Illinois. Nothing in this Section prohibits the Office of the State Treasurer from entering into contracts with persons to examine holders located outside the State of Illinois under which the Office of the State Treasurer agrees to pay such persons based upon a percentage of the property recovered for the State of Illinois.

(Source: P.A. 91-16, eff. 7-1-99.)

Penalties

(765 ILCS 1025/25) (from Ch. 141, par. 125)

Sec. 25.

- (a) Any person who fails to render any report or perform other duties required under this Act, is guilty of a business offense and fined not more than \$500. Each day such report is withheld or the duties are not performed constitutes a separate offense.
- (b) Any person who wilfully refuses to pay or deliver abandoned property to the State Treasurer as required under this Act shall be guilty of a Class B misdemeanor. Each day the violation continues is a separate offense.

(Source: P.A. 91-16, eff. 7-1-99.)

Administrative Charges, Fees, and Interest Charges

(765 ILCS 1025/25.5)

Sec. 25.5. Administrative charges, fees, and interest charges.

- (a) The State Treasurer may charge a holder that files an unclaimed property report after the due date, as determined by the State Treasurer, the lesser of \$100 or \$1 for each day the report remains overdue.
- (b) The State Treasurer may charge a holder that fails to timely perform due diligence, as required by this Act, \$5 for each name and address account reported if 35% or more of the accounts are claimed within the 24 months immediately following the filing of the holder's annual report.
- (c) A holder who remits unclaimed property that is past due or fails to remit unclaimed property pursuant to an examination by the State, may be charged based on the value of the property the greater of 1% per month or an annualized rate that is 3 percentage points above the prime rate as published in the Wall

Street Journal on the first business day of the month in which the property was remitted. If the property remains past due for more than 12 months, the interest rate for each succeeding year shall be calculated at the greater of an annual rate of 12% or 3 percentage points above the prime rate. The prime rate applied shall be as published on the first business day of January of that successive year.

- (d) The State Treasurer may grant an extension of time to any holder to report or remit when the holder submits a written request for an extension before the date a report or remittance is due.
- (e) Whenever the State Treasurer charges a holder or assesses a fee provided for in this Section, he shall serve notice upon the holder by personal service or by delivering the notice by certified mail, return receipt required, through the United States Postal Service to the holder.
- (f) A holder may contest a charge or other fee issued by the State Treasurer by requesting in writing an administrative hearing within 15 business days of the receipt of the State Treasurer's notice of the charge or fee. The hearing shall be held at a time and place designated by the State Treasurer.
- (g) The State Treasurer's finding subjecting a holder to a charge or other fee shall become a final order under the Administrative Review Law upon the failure of the holder to demand a hearing within 15 business days.
- (h) If a hearing is held, the State Treasurer shall issue an order affirming, modifying, or overruling the charge or other fee. The order shall be a final order under the Administrative Review Law.
- (i) A holder shall not be charged for failing to remit past due unclaimed property pursuant to the State's examination and demand for remittance when the holder, in good faith, contests all or part of the finding, until a final order reviewing the remittance is entered by a hearing officer or the circuit court. With regard to contested examinations, the charges, fees, or interest shall not accrue during the period from the holder's filing of the request for a hearing until the date of the final order. However, a holder may be charged for failing to remit any undisputed amounts of unclaimed property that are not being contested in an administrative hearing or court action.
- (j) The administrative charges, fees, and interest charges provided for in this Section shall not apply to property held by a trust division or trust department or by a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States.

As of January 1, 1998, this subsection shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

- (k) In the conduct of a hearing initiated by a holder under this Act, the State Treasurer has the power to administer oaths, subpoena witnesses, and compel the production of books, papers, documents, or records relevant to the hearing under this Act.
- (l) The provisions of this Section apply only to reports due and examinations commenced after the effective date of this amendatory Act of 1993.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

Rules and Regulations

(765 ILCS 1025/26) (from Ch. 141, par. 126)

Sec. 26. The State Treasurer, Director of Financial Institutions, and the Commissioner of Banks and Real Estate are hereby authorized to make necessary rules and regulations to carry out the provisions of this Act.

(Source: P.A. 91-16, eff. 7-1-99.)

Escheated or Abandoned Property under Laws of Other States

(765 ILCS 1025/27) (from Ch. 141, par. 127)

Sec. 27. This Act shall not apply to any property, other than property covered by Sections 6 and 8 of this Act, as to which the presumption of abandonment prescribed by this Act occurred prior to August 17, 1946, to any property that has been presumed abandoned or escheated under the laws of another state prior to August 17, 1961, or to any funds held by any annuity, pension or benefit funds created pursuant to the laws of this State and supported by public revenues.

(Source: Laws 1963, p. 1805.)

Severability Clause

(765 ILCS 1025/28) (from Ch. 141, par. 128)

Sec. 28. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

(Source: Laws 1961, p. 3426.)

Construction

(765 ILCS 1025/29) (from Ch. 141, par. 129)

Sec. 29. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(Source: Laws 1961, p. 3426.)

Application to Labor and Storage Lien (Small Amount) Act

(765 ILCS 1025/29.5)

Sec. 29.5. The provisions of this Act do not apply to property and proceedings under the Labor and Storage Lien (Small Amount) Act.

(Source: P.A. 88-435.)

Short Title

(765 ILCS 1025/30) (from Ch. 141, par. 130)

Sec. 30. This Act may be cited as the Uniform Disposition of Unclaimed Property Act.

(Source: Laws 1961, p. 3426.)